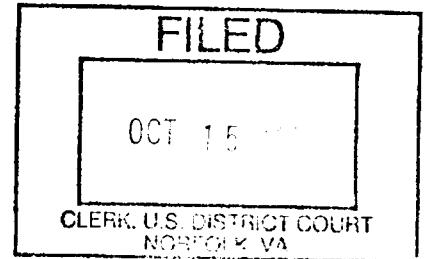


UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF VIRGINIA  
Newport News Division

JEANETTE D. GILCHRIST,



Plaintiff,

v.

Civil Action No.: 4:08cv95

COMMISSIONER OF SOCIAL SECURITY,

Defendant.

OPINION AND ORDER

Plaintiff brought this action under 42 U.S.C. § 405(g) seeking judicial review of the final decision of the Commissioner of Social Security (“Commissioner”) denying her claim for disability insurance benefits and supplemental security income under the Social Security Act (“SSA”). Pursuant to the provisions of 28 U.S.C. §§ 636(b)(1)(B) and (C), Rule 72(b) of the Federal Rules of Civil Procedure, Rule 72 of the Rules of the United States District Court for the Eastern District of Virginia, and by order of reference dated January 27, 2009, this matter was referred to a United States Magistrate Judge for a Report and Recommendation. Doc. 6.

The Report and Recommendation of the Magistrate Judge (“R&R”), filed on August 25, 2009, finds that the Administrative Law Judge’s (“ALJ”) determination that Plaintiff is not disabled is not supported by substantial evidence. Doc. 13. Specifically, the Magistrate Judge finds that the record contained obviously probative evidence of mental limitations and the ALJ failed to sufficiently explain the weight of this evidence or provide an explanation as to why such evidence was not considered. In light of this deficiency, the Magistrate Judge determined that the ALJ’s residual functional capacity (“RFC”) analysis was not supported by substantial evidence.

Given that the ALJ's RFC analysis is a predicate to proper determinations at step four and step five, the Magistrate Judge found that the ALJ's analysis at steps four and five was similarly unsupported by substantial evidence.

Accordingly, the Magistrate Judge recommended that: (1) Defendant's motion for summary judgment be denied; and (2) the case be remanded for further consideration. Id. at 43. By copy of the R&R, each party was advised of the right to file written objections to the findings and recommendations made by the Magistrate Judge within ten (10) days from the date the R&R was mailed, pursuant to Rule 6(a) of the Federal Rules of Civil Procedure. The time for filing written objections has now passed, and neither party has filed objections. As indicated in the R&R, "failure to file timely objections to the findings and recommendations set forth [in the R&R] will result in a waiver of the right to appeal from a judgment of this court based on such findings and recommendations." Id. at 43-44.

This Court has reviewed the R&R of the Magistrate Judge and hereby adopts and approves in full the findings and recommendations set forth therein. Accordingly, it is hereby **ORDERED** that the final decision of the Commissioner be **VACATED** and **REMANDED** for further administrative proceedings consistent with the R&R and that Defendant's Motion for Summary Judgment be **DENIED**.

The Clerk is **REQUESTED** to send a copy of this Opinion and Order to all counsel of record.

It is so **ORDERED**.

/s/

Henry Coke Morgan, Jr.  
Senior United States District Judge

HENRY COKE MORGAN, JR.   
SENIOR UNITED STATES DISTRICT JUDGE

Norfolk, Virginia

October 14, 2009